Supreme Court, U.S.
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No. 111 Original

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1993

STATE OF DELAWARE,

Plaintiff,

STATES OF ALABAMA, ALASKA, ARIZONA, ARKANSAS, CALIFORNIA, et al.,

Plaintiffs in Intervention,

v.

STATE OF NEW YORK,

Defendant.

ON BILL OF COMPLAINT

AMENDED COMPLAINT IN INTERVENTION OF THE STATE OF CALIFORNIA

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The State of California, Plaintiff in Intervention, by and through its Attorney General files this Amended Complaint in Intervention and alleges as follows:

I.

JURISDICTION

1. The original jurisdiction of this Court is invoked under Article III, Section 2 of the Constitution of the United States and Section 1251 of Title 28 of the United States Code.

II.

PENDING ACTION

2. On May 31, 1988, this Court granted the Motion for Leave to File Complaint by Plaintiff State of Delaware ("Delaware") invoking the original jurisdiction of the Court to resolve a controversy between Delaware and Defendant State of New York ("New York") as to which State is entitled to claim and take possession of certain unclaimed intangible personal property held by securities brokerage firms incorporated in Delaware.

3. On February 21, 1989, the Court granted the Motion for Leave to File Complaint in Intervention by the State of Texas ("Texas"). The Texas Complaint also made subject to this suit certain additional unclaimed intangible personal property held by the Depository Trust Company.

4. On March 30, 1993, the Court granted the Motions of the States of Arizona, California, Colorado, Connecticut, Idaho, Maryland, Michigan, Minnesota,

Nebraska, New Mexico, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, Tennessee and Wisconsin, the Commonwealths of Massachusetts and Virginia, and the District of Columbia, for Leave to File Complaint in Intervention.

5. On March 30, 1993, the Court also granted the Motions of the States of Alabama, Alaska, Arkansas, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, North Dakota, Oklahoma, South Dakota, Utah, Vermont, Washington, West Virginia and Wyoming, and the Commonwealths of Kentucky and Pennsylvania, for Leave to File Complaint in Intervention. These Complaints expanded the scope of this action to include certain unclaimed intangible property held by all brokerage firms, wherever incorporated, and by banks and other nonbrokerage firm intermediaries.

6. On June 8, 1993, in Litigation Management Order No. 6 at 8, the Special Master granted leave to all intervening parties to file amended complaints within 30 days. In accordance with that Order, California hereby amends its Complaint earlier filed with the Court.

III.

CLAIM OF PLAINTIFF IN INTERVENTION

7. California seeks a determination of its rights to certain unclaimed intangible personal property, referred to as "Distributions" as defined in paragraph 8 below, which

comes into being and acquires its character as unclaimed property in the context of securities transactions.

8. "Distributions" consist of unclaimed dividends, profits, principal, interest and other payments on or with respect to securities, held or formerly held by brokerage firms, banks, depositories, clearinghouses for the settlement trades in securities, and by other nonbrokerage firm intermediaries (collectively "Intermediaries"). The Distributions constitute unclaimed intangible personal property held or formerly held by Intermediaries because the Intermediaries do not or did not know the identities or addresses of the beneficial owners of the Distributions and thus do not or did not know to whom to transmit them.

9. New York has taken possession of a portion of these Distributions to which it is not entitled. California is entitled to recover from New York an undetermined portion of those Distributions either because (a) under this Court's primary rule, the last known addresses of the owners of the Distributions are in California or, (b) under this Court's backup rule, if there is no last known address, the Distributions were taken by New York from Intermediaries incorporated in California.

10. California further claims entitlement to recover from New York such Distributions taken by New York as to which there is no last known addresses of the owners and which were held by Intermediaries not incorporated in any State, according to equitable principles determined or to be determined by the Court.

11. Alternatively, California claims entitlement to recover pursuant to any ruling of the Court in this case an undetermined portion od Distributions taken by the State of New York.

12. California realleges all its contentions and request for relief previously made in its Complaint In Intervention as though fully set forth herein.

PRAYER FOR RELIEF

WHEREFORE, California prays:

1. That judgment be entered for that portion of the Distributions to which California is entitled under applicable principles of law, plus prejudgment interest at the prevailing rate; and

2. Such other and further relief as this Court deems just and proper.

DATED: July 8, 1993

Respectfully submitted,

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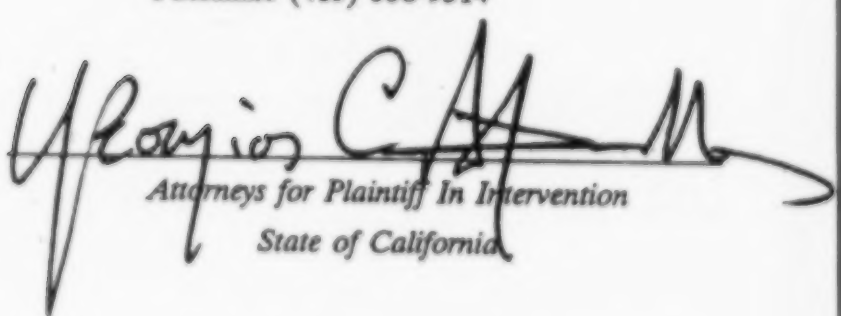
By: 

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